

INFORMATION PAPER**AFFIRMATIVE CLAIMS**

1. **PURPOSE:** To inform commanders and heads of Army and DoD organizations or activities of affirmative claims procedures and the need to identify potential claims to recover money for the Army for damage or loss of property and the costs of medical care provided to soldiers, family members, and retirees.

2. **FACTS:**

a. As a property owner, the Army is often the victim of a tort. In many cases, the Army has a right to assert a claim against the tortfeasor and his or her insurer for damage to government property. The Army also has the right to assert a claim for the cost of medical care provided by military medical treatment facilities and for the lost wages of the service member resulting from the negligence of the tortfeasor. The Fort Belvoir claims office asserts affirmative claims against tortfeasors and their insurers for property damage and the cost of medical care provided by military medical treatment facilities (MTFs) and payments made by Tri-Care.

b. Monies recovered for personal property damage claims in favor of the Army are returned to the government. Monies recovered for damaged real property are deposited into the local account available for the repair or replacement of the real property. Monies recovered for care provided by or through the local MTF are deposited into the local MTF Operation and Maintenance (O&M) account. Monies recovered for lost pay are deposited to the installation O&M account that supports the operation of the command, activity, or other unit to which the member was assigned. Monies received for amounts paid by Tri-Care are deposited to the Tri-Care reimbursement account.

c. As an alternative to money damages, a recovery judge advocate or recovery attorney may accept, in lieu of money, the replacement of the property or the property's restoration to its prior condition. Before a release based on a repair or replacement in kind may be executed, the technical staff officer responsible for the type of property in question must certify that this procedure is acceptable and that the repair or replacement in kind was satisfactorily accomplished. This procedure may also be used in cases involving damaged real property.

d. Investigations are often conducted by unit claims officers (UCOs), who are encouraged to coordinate with the Fort Belvoir claims office at (703) 805-4377/4031. The UCO's commander or head of the organization is responsible for the adequacy of the investigation but not for determining liability. The investigation is forwarded to the recovery judge advocate or recovery attorney who makes a determination of liability and asserts a demand upon the prospective defendant and the insurer, if known.

3. **CURRENT STATUS:** The Fort Belvoir Claims Office asserts affirmative claims on behalf of DeWitt Army Community Hospital, Fort Belvoir, and the Department of the Army for medical care for soldiers, retirees and family members and for installation property damage or loss, and is prepared to work with your organization to protect the Army's financial interest.

PREPARED BY: Mr. Gregory V. Hand, (703) 805-4377

AUTHENTICATION: LTC Mark Tellitocci  DATE: 6 December 2005

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Notification of Treatment of Patients Involved in Vehicular Accidents, Slip and Fall, Suspected Assault, or Injuries Involving People other than the Patient

1. This memo prescribes procedures that can result in additional funding for your clinic, department/service.
2. Money collected through Third Party Liability cases was previously credited to general fund. This change puts the money into the hospital's budget, so it is important for all MEDDAC Clinics, Departments and Services to understand that the Third Party Liability Office must be notified when outpatients are provided treatment as a result of a motor vehicle accident, slip and fall, or other types of personal injury that involves individuals other than the patient.
3. The Third Party Liability Office, Ms. Georgette Day, is located at Bldg 257 at the Office of the Staff Judge Advocate. Her phone number is 805-4031. Your clinic has been provided Third Party Liability Questionnaires in which the patient is required to complete and provide accurate information pertaining to the incident.
4. Do not confuse Third Party Liability with the Third Party Collection Program (TPCP). The TPCP is the billing of private health insurance companies for retirees and family members treated in Military Treatment Facilities. Third Party Liability is when the government seeks reimbursement from insurance companies of the party at fault in motor vehicle accidents, slip and fall or other types of personal injury inflicted upon active duty military or a family member.
5. Money recovered under the Third Party Liability Program will be used to enhance patient care and provide new and upgraded equipment for the hospital. During FY 2006, Dewitt Army Hospital recovered over \$340,000 under this program. The potential for revenue depends again on the participation provided by your clinics/departments.

STAFF JUDGE ADVOCATE
THIRD PARTY LIABILITY RECOVERY PROGRAM

Common Questions Asked

1. What is the purpose of the Third Party Liability Program?

The program is designed to recover from third-party payers the cost of medical care provided to DeWitt Health Care Network (DHCN) patients in injury situations. Pursuant to Federal law 10 U.S.C. 1095; Congress requires the military services to collect from any applicable insurance plan or health plan that covers the injury. The most common situations involve automobile insurance and workers' compensation coverage.

2. Where is the recovered money deposited?

All monies collected under the program are deposited directly back into the hospital where it is used to enhance health care services.

3. Who supervises the program?

Because the program involves injury cases that require a legal analysis, the SJA Post Claims Office supervises the program. The Claims Attorney at the Staff Judge Advocate's Office is assisted by a full-time Paralegal Specialist and Claims Examiner.

4. Is the Third Party Liability Recovery Program the same as the Third Party Collection Program (TPCP) ?

No. The (TPCP) has offices at DHCN and collects the costs of medical care which is covered by a patient's health insurance. On the other hand, the Third Party Liability Recovery Program collects in injury cases covered by a third-party payer, such as automobile or workers' compensation insurance.

5. What happens if an injured patient also has health insurance?

Always obtain health insurance information. However, in injury cases, also have the patient complete the injury questionnaire and make a note that health insurance also applies. The Post Claims Office will then coordinate with the Third Party Collection office at (DHCN) to determine what insurance plan to collect from.

6. Why is the injury questionnaire important?

The form serves two extremely important purposes. First, it is a way to identify new injury cases. Second, it obtains information critical to working a case. For example, in an automobile accident case, the form tells us when and where the accident occurred, what vehicles were involved, and what automobile insurance is available. With that information, we can start recovery action sooner and reduce the time it takes to work a case.

7. Is the patient required to complete the injury questionnaire?

If the patient is being treated for an injury, the patient must complete the form as completely as possible. **FEDERAL REGULATIONS REQUIRE PERSONS RECEIVING TREATMENT AT MILITARY TREATMENT FACILITIES TO PROVIDE**

INFORMATION CONCERNING HOW THE INJURY OCCURRED AND WHETHER A THIRD-PARTY PAYER COVERS THE INJURY. In non-injury cases, the patient is not required to fill out the injury questionnaire. In all cases, a patient may still be required to complete the health insurance questionnaire.

8. If the cost of medical care is not recovered, will the patient be billed?

No. Health Care is a service benefit to soldiers, retirees, and their family members. Unless the injured party recovers or receives money designated for the Government, if we cannot recover from a third-party payer, the case is closed.

9. Who do I contact if I have further questions about the Medical Claims Office, Third Party Liability Recovery Program? Contact the Claims Office at (703) 805-4031 and ask for Georgette Day.